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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 WILLIAM D. OPP,

15 Defendant.  
16

No. Cr. S 22-144 KJM

**STIPULATED MOTION AND ORDER TO  
REDUCE SENTENCE PURSUANT TO 18  
U.S.C. § 3582(c)(2)**

RETROACTIVE CRIMINAL HISTORY  
REDUCTION CASE

Judge: The Honorable KIMBERLY J. MUELLER

17 Defendant, WILLIAM D. OPP, by and through his attorney, Assistant Federal Defender  
18 David M. Porter, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel,  
19 Assistant U.S. Attorney Shelley D. Weger, hereby stipulate as follows:

20 1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of  
21 imprisonment in the case of a defendant who has been sentenced to a term of imprisonment  
22 based on a sentencing range that has subsequently been lowered by the Sentencing Commission  
23 pursuant to 28 U.S.C. § 994(o), after taking into account the policy statements set forth in USSG  
24 § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are  
25 applicable;

26 2. The United States Sentencing Commission recently amended the Sentencing  
27 Guidelines to include what now appears in USSG § 4C1.1 (“zero-point provision”). *See*  
28 Amendment 821, Part B, Subpart 1. The zero-point provision provides a 2-offense-level

reduction for certain offenders who present zero criminal history points and satisfy the criteria listed in USSG § 4C1.1(a);

3. On April 26, 2023, this Court sentenced Mr. Opp to 45 months imprisonment on each of Counts 1 and 2, to be served concurrently for a total term of 45 months;

4. Mr. Opp's total offense level was 25, his criminal history category was I (having no criminal history points), and the resulting guideline range was 57 to 71 months. The Court imposed a sentence below the advisory guideline range based on the government's motion for a 20% departure from the low-end of the guideline range. Statement of Reasons at p. 2; ECF No. 19;

5. The sentencing range applicable to Mr. Opp was subsequently lowered by the zero-point provision;

6. Mr. Opp is eligible for a reduction in sentence, which reduces his total offense level by 2 from 25 to 23, resulting in an amended advisory guideline range of 46 to 57 months;

7. When the defendant's original sentence was below the applicable guideline range, the court may, in accordance with the exception set forth in USSG § 1B1.10(b)(2)(B), grant a comparable reduction below the amended guideline range, which in this case is 36 months;

8. Accordingly, the parties request the Court enter the order lodged herewith reducing Mr. Opp's term of imprisonment to 36 months on each of Counts 1 and 2 to be served concurrently for a total term of 36 months. If the amount of time served as of the effective date of the Court's order exceeds 36 months, the sentence would instead be reduced to a sentence of time served, in which case, the order should be stayed for up to ten (10) days to allow the Bureau of Prisons to perform its statutory duties and release planning;

The following statements are provided by Mr. Opp and the United States, respectively, and are not part of the parties' stipulation;

1. Mr. Opp's statement regarding the stipulation: Defendant's counsel enters into this stipulation after having examined the pertinent documents, including the plea agreement, the presentence report, statement of reasons, and judgment, and speaking with the defendant. Mr. Opp's projected release date is May 7, 2026. Defendant was allowed to remain out of custody

on his own recognizance, and complied with all directives. ECF 10. He was permitted to self-surrender after sentencing. ECF 22. He holds the position of maintenance orderly and has no disciplinary issues.

2. United States' statement regarding its stipulation: Defendant William Opp pleaded guilty to Bid-Rigging conspiracy, in violation of 15 U.S.C. § 1, and Bribery Concerning Programs Receiving Federal Funds, in violation of 18 U.S.C. § 666(a)(2). The United States enters into this stipulation after reviewing the Presentence Investigation Report ("PSR"), the United States' sentencing memorandum (ECF No. 20) and motion for downward departure (ECF No. 19), Statement of Reasons ("SOR"), Judgment (ECF No. 23), defendant's Bureau of Prisons ("BOP") disciplinary history, and after conferring with the prosecuting Assistant United States Attorney and United States Department of Justice, Antitrust Division Trial Attorney. At sentencing, the government recommended a 20% departure from the low-end of the advisory guideline range pursuant to Section 5K1.1 of the Sentencing Guidelines and recommended a sentence of 45 months' imprisonment. ECF Nos. 19 and 20. As of April 24, 2024, the defendant has no sustained disciplinary incidents during his time in Bureau of Prison's custody.

Respectfully submitted,

Dated: April 29, 2024

PHILLIP A. TALBERT  
United States Attorney

/s/ Shelley D. Weger  
SHELLEY D. WEGER  
Assistant U.S. Attorney

Attorney for Plaintiff  
UNITED STATES OF AMERICA

Dated: April 29, 2024

HEATHER E. WILLIAMS  
Federal Defender

/s/ David M. Porter  
DAVID M. PORTER  
Assistant Federal Defender

Attorney for Defendant  
WILLIAM D. OPP

**ORDER**

This matter came before the Court on the stipulated motion of the parties for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, pursuant to USSG § 1B1.10(b)(2)(B), that Mr. Opp is entitled to the benefit of Amendment 821, Part B, Subpart 1, the new zero-point provision, which reduces the total offense level from 25 to 23, resulting in an amended guideline range of 46 to 57 months.

IT IS HEREBY ORDERED the term of imprisonment imposed in April 2023 is reduced to 36 months on each of counts one and two to be served concurrently for a total term of 36 months. If the amount of time served as of the effective date of this order exceeds 36 months, the sentence is instead reduced to a sentence of time served, in which case, the order may be stayed for up to ten (10) days to allow the Bureau of Prisons to perform its statutory duties and release planning.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above reduction in sentence.

Unless otherwise ordered, Mr. Opp shall report to the United States Probation Office within seventy-two hours after his release.

Dated: May 8, 2024

  
CHIEF UNITED STATES DISTRICT JUDGE